

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXXX

Petitioner

v

File No. 120582-001

Blue Cross Blue Shield of Michigan

Respondent

Issued and entered
this 17TH day of October 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On April 13, 2011, XXXXXX, on behalf of her minor daughter XXXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the material submitted and accepted the request on April 20, 2011.

Because this review involves medical issues, the Commissioner assigned the case to an independent medical review organization which provided its analysis and recommendation to the Commissioner on May 6, 2011.

II. FACTUAL BACKGROUND

The Petitioner is enrolled for health care coverage through the MICHild Program. The provisions of her coverage are governed by the terms of the MICHild Program benefits certificate issued by Blue Cross Blue Shield of Michigan (BCBSM).

On November 21, 2010, the Petitioner was taken by her mother to the XXXXXX Hospital. Petitioner's mother believed Petitioner had strep throat. The Petitioner's symptoms recorded by the urgent care nurse were stuffy nose and cough for the past two weeks and sore throat and ear pain. Petitioner received treatment for which the charge was \$122.00. BCBSM denied coverage, ruling that the Petitioner's condition was not a medical emergency.

The Petitioner appealed the denial through BCBSM's internal grievance process. BCBSM held a managerial-level conference on March 2, 2011, and issued a final adverse determination dated April 4, 2011, upholding its position.

III. ISSUE

Did BCBSM properly deny coverage for the Petitioner's care at the urgent care facility?

IV. ANALYSIS

Petitioner's Argument

The Petitioner's mother argues that Petitioner was not taken to the emergency room, she was taken to an urgent care center. Additionally, the Petitioner's brother had tested positive for strep the day before the Petitioner went to urgent care on November 21, 2010. Petitioner's mother states that in the past her children have not a fever when they have been diagnosed with strep throat. She advised that even though Petitioner tested negative for strep, the nurse indicated the instant test was not 100% accurate. Petitioner's mother indicated that since she had a sore throat and her brother had strep, Petitioner was treated with antibiotics.

The Petitioner's mother states she would not have taken her daughter to urgent care if she did not feel it was necessary. She states it takes several hours of sitting and waiting, and also that she cannot afford to pay the \$122.00 for this care. Petitioner's mother argues she did the right thing by taking her daughter to urgent care and believes that BCBSM should be required to pay for this care.

BCBSM's Argument

In its final adverse determination, BCBSM wrote to the Petitioner's mother:

As you know, your daughter is enrolled under the MiChild Program Benefits Certificate. Page 3.27 of the Certificate indicates that facility services are payable for the initial exam and treatment of a medical emergency or accidental injury in the outpatient department of a hospital, urgent care center, or physician's office. Page 7.14 of the same certificate defines a medical emergency as a condition that occurs suddenly and unexpectedly. This condition could result in serious bodily harm or threaten life unless treated immediately.

Our medical consultants reviewed the emergency room report and based on that documentation, they confirmed that medical criteria [were] not met. Rather, your daughter had a two week history of cough and cold. There was no recorded worsening of symptoms and any fever or pain. Therefore, it is not considered a medical emergency and you remain liable for the charge.

Commissioner's Review

The certificate requires that for care at an urgent care center to be a covered benefit, it must be treatment of a medical emergency or an accidental injury. The treatment in question did not involve an accidental injury. The question of whether the Petitioner's care was treatment of a medical emergency was presented to an independent review organization (IRO) for analysis as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer is a physician in active practice who is certified by the American Board of Pediatrics and is a fellow of the American Academy of Pediatrics. The IRO reviewer's report includes the following analysis:

The mother's appeal states that the enrollee's brother was diagnosed with strep two (2) days prior to this urgent care visit but this history is not noted in the medical record. A throat culture was not done on the visit in question. The mother's account is contradicted by the documentation in the medical record. Even if she felt the child did have strep throat, per the certificate of coverage, the health plan only pays for EMERGENT care for which symptoms appear 'suddenly and unexpectedly' and this is not substantiated by the medical record for the urgent care visit of November 21, 2010. Additionally, the peer-reviewed published medical literature as well as established national guidelines for URI [upper respiratory infection] work-up, evaluation and treatment, do not support the use of an urgent care setting for a longstanding and unchanged URI.

Thus, the use of the urgent care setting in this clinical scenario was not medically necessary.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16) (b). The IRO reviewer's analysis is based on expertise and professional judgment and the Commissioner can discern no reason why the recommendation should be rejected in the present case.

The Commissioner finds BCBSM's denial of coverage for Petitioner's November 21, 2010, treatment is consistent with the terms of the certificate.

V. ORDER

Blue Cross Blue Shield of Michigan's April 4, 2011, final adverse determination is upheld. BCBSM is not required to provide coverage for the Petitioner's urgent care visit of November 21, 2010.

Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.